

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 29, 2002, Work Session**

AGENDA ITEM NO.: **4**

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Code Enforcement: Substandard Property; Update on Rental Inspection Program; Vacant Building Registry**

RECOMMENDATION: Authorize staff to draft an ordinance amendment to institute a rental property registration and related fee.

PRIOR ACTIONS: By Council adopted ordinance in 1987, the Department of Community Planning & Development created a Rental Inspection Program applying the BOCA Property Maintenance Code. The relevant code section is attached. The program requires the bi-annual inspection of rental properties in the Low-Income Census Tracts located in the center city neighborhoods. Two housing inspectors were hired in 1987. In 2000, City Council approved the addition of a Senior Property Maintenance Inspector, Bob Drane, to oversee the program. In addition, one administrative position was eliminated and replaced with a vacant housing coordinator, Sharon Phillips. A new Building Official, Karl Cooler, was hired in 2002. He and Bob Drane have developed a database for managing substandard property and comprehensive program on the City's Web Map surveying and displaying the number of rental units in the Rental Property Program boundaries. That database will be demonstrated to Council during its work session.

Actual inspections under the Rental Inspection Program have been hindered by a lack of resources. In order to fully implement the program, it is recommended that the ordinance be amended to require the registration of rental property and that a fee be established. A fee of \$25.00 per rental unit is recommended. It is suggested that this program be established initially in the rental zones defined in the current ordinance. This would cover approximately 3455 units. The fee would be used to employ an additional inspector for the Rental Inspection Program.

FISCAL IMPACT: The proposed fee would generate approximately \$86,000 if all properties were registered. This would more than cover salary and benefits for an additional inspector.

CONTACTS: Rachel Flynn (847-1435 ext. 253), Karl Cooler (847-1572 ext. 248)

ATTACHMENTS: Excerpt from the City Code; Rental Units by census tract

REVIEWED BY: lkp

Rental Property Statistics

In developing the Rental Property Database, It was determined that the number of rental properties in the City of Lynchburg are estimated at:

- Z-4 1028 Units
- Z-5.98 240 Units
- Z-6 828 Units
- Z-7 520 Units
- Z-11 186 Units
- Z-12 237 Units
- Z-13 416 Units

- **Total Rental Units in Rental Zones**
3,455
- **Total Rental Units in Lynchburg**
10,129

Instituting a yearly registration fee of \$25.00 per rental unit in the rental property zones would result in the following:

3,455 X \$25.00 = \$86,375.00 estimated revenue if 100% compliant.

@ 50% compliance = \$43,187.50

@ 75% compliance = \$64,781.25

Excerpt from the Lynchburg City Code

DIVISION 3. RENTAL PROPERTY INSPECTIONS.

Sec. 11-62. Purpose and intent.

This division is adopted to ensure the public health, safety and welfare in rental dwellings and dwelling units located within those areas of the city determined by City Council herein to be in need of a special program of housing inspections. This program is designed and intended to prevent property deterioration and neighborhood blight in designated areas by requiring proper building maintenance and continued compliance with applicable building regulations. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.1. Definitions.

(a) Generally. Certain words and phrases used in this division shall have the meanings prescribed to them by this section, except in the instances where the context clearly indicates a different meaning.

(b) Director. The word “director” shall mean the director of the department of community planning and development, or such employee(s) of the department of community planning and development as the director may designate to administer and enforce this division.

(c) Dwelling. The word “dwelling” shall mean any building or structure which meets the definition of “dwelling” found in Article 2 of the Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code.

(d) Dwelling unit. The word “dwelling unit” shall be as defined by Article 2 of the Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code.

(e) Managing agent. The word “managing agent” shall mean any individual, association of individuals, corporation, partnership or other entity having the authority, singly or in combination with another, to enter into any agreement for the occupancy of property subject to this division.

(f) Owner. The word “owner” shall mean any individual or individuals, corporation, partnership or other entity, jointly or severally, in whom is vested all or part of the legal title to property, or all or part of the beneficial ownership and a right to

present use and enjoyment of property that is subject to this division, including a mortgagee.

(g) Property. The word "property" shall mean dwellings and dwelling units which are leased or rented in whole or in part, to tenants for valuable consideration. The word "property" shall include dwellings occupied under a lease/purchase agreement. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.2. Effective date and applicability.

The provisions of this division shall become effective on January 1, 1994, and shall be applicable to all dwellings and dwelling units that are located in the following areas of the city:

That area of the city designated as census tract #2.03 by the 1990 Census Data.

That area of the city designated as census tract #4 by the 1990 Census Data.

That area of the city designated as census tract #5.98 by the 1990 Census Data.

That area of the city designated as census tract #6 by the 1990 Census Data.

That area of the city designated as census tract #7 by the 1990 Census Data.

That area of the city designated as census tract #11 by the 1990 Census Data.

That area of the city designated as census tract #12 by the 1990 Census Data.

That area of the city designated as census tract #13 by the 1990 Census Data.

The census tracts identified above encompass that area of the City beginning at the intersection of Concord Turnpike and Rockwell Road north along a unnamed creek to the James River and the corporate limits of the City, thence northwest along the corporate limits to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracts to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Middlesex Avenue, northwest on Page Street to Atherholt Road following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Murrell Road, southwest on Murrell Road to Lakeside Drive and Allegheny Avenue, thence southeast on Allegheny Avenue to Memorial Avenue; southwest on Memorial Avenue to Twelfth Street continuing on Twelfth Street to its intersection with the Norfolk Southern Railway tracks, south along said tracts to a railroad intersection continuing southeast along Norfolk Southern

Railway tracks to their intersection of Martin Street and Old Courthouse Turnpike; thence north on Old Courthouse Turnpike to the 460 By-pass and Terry Court continuing north to Martin Street and Campbell Avenue; then proceeding across Campbell Avenue to Florida Avenue, north on Florida Avenue to the bridge over the Norfolk Southern Railway tracks thence east along the unnamed creek to the point of beginning. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.3. Certificate of occupancy/certificate of compliance required.

(a) No owner, managing agent, or other person in control of any dwelling or dwelling unit located in the areas covered by this division shall make such property initially available as rental property until said dwelling or dwelling unit shall have been inspected prior to occupancy and shall have been determined to have been in compliance with Volume II - Building Maintenance Code of the Virginia Uniform Statewide Building Code and all other applicable codes, standards and ordinances. Such compliance shall be evidenced by a certificate of occupancy or certificate of compliance issued by the director of community planning and development.

(b) Except in the case of an emergency involving a threat to life and property, as determined by the director of the department of community planning and development, no electric power company or gas company shall commence initial electrical or gas service to a dwelling or dwelling unit subject to this division, or continue service unless or until a valid certificate of occupancy or temporary certificate of occupancy or certificate of compliance has been issued for such property. The director shall promptly notify the electrical power company or gas company of the issuance of a certificate of occupancy or temporary certificate of occupancy or certificate of compliance. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.4. Notice by owner, etc.

(a) On or before January 1 of each year, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall furnish the department of community planning and development, in writing, with a list of all rental properties that they own or manage in those areas of the city that are covered by this division. Such written notice shall include the address and a brief description of the rental property; the name, street address and telephone number of the owner of the property; the name, street address and telephone number of the managing agent, if any; and the name, street address and telephone number of the person that is responsible for maintaining the rental properties.

(b) In the event the director of community planning and development furnishes the owner or managing agent with information forms requesting certain information

regarding rental properties, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall complete such forms and return them to the director within the designated time period.

(c) It shall be a violation of this division for an owner or managing agent to fail or refuse to provide the department of community planning and development with such information or to provide false or misleading information. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.5. Inspection of rental properties.

(a) The director of community planning and development shall cause an inspection to be made of each dwelling or dwelling unit located in those areas of the city covered by this division on a biennial basis. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the designated time period shall constitute a violation of this division and also may result in revocation of the certificate of occupancy.

(b) Upon determination that the dwelling or dwelling unit is in compliance with Volume II - Building Maintenance Code of the Virginia Uniform Statewide Building Code and all other applicable codes, standards and ordinances, a certificate of compliance will be issued to the owner or managing agent. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Section 11-62.6. Inspection fees.

There shall be no charge for the initial inspection. In the event any repairs or corrections are deemed necessary and a second inspection is required, there shall be no charge for the second inspection. In the event a third or subsequent inspection is required, the owner shall be charged an inspection fee of twenty-five dollars (\$25.00) for each inspection of a dwelling or dwelling unit. No certificate of compliance shall be issued until all inspection fees have been paid. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.7. Entry.

For the purpose of enforcing provisions of this division, the director of the department of community planning and development, or his duly authorized agent, shall have the right to inspect any dwelling or dwelling unit within designated areas identified in Section 11-62.2 of this division at any reasonable time. In the

event the director of community planning and development, or his duly authorized agents shall be denied access to a dwelling or dwelling unit may apply for an administrator search warrant in order to gain access to the premises. It shall be a violation of this division for any owner, managing agent, tenant, or other person, to deny the director of community planning and development, or his duly authorized agent, access to any dwelling or dwelling unit within the areas covered by this division. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.8. Violations.

(a) It shall be unlawful for any owner, managing agent, or other person to fail to comply with the requirements contained in this division.

(b) Any person failing to comply with the requirements of this division shall be guilty of a class 2 misdemeanor. Each day such violation continues shall constitute a separate punishable offense. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.9. Enforcement.

The director of community planning and development and his authorized agents are hereby empowered to enforce all of the provisions of this division, to act pursuant to the authority contained herein and to perform all the duties required thereby. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.10. Temporary waiver.

(a) Any owner or managing agent whose rental property is inspected and found not to be in compliance with the code may petition the director of community planning and development, in writing, for a temporary waiver of compliance. The petition shall be on a form provided by the director and shall contain the information therein requested and which may be reasonably necessary to its decision, and shall include a written statement signed by the applicant, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work, and if known, the name of the person or company that will perform the work. If the director finds that:

1. The delay in the correction of the violation is reasonable, taking into the consideration the availability of qualified persons to do the work and the current work load; and

2. The work can be reasonably undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere when the dwelling or dwelling unit will not be habitable because of the work of correcting violations; the director may issue a temporary waiver of compliance which will allow a reasonable period of time to achieve compliance. This period shall not be less than thirty (30) days nor more than one hundred and twenty (120) days. The applicant shall, on or before such date, request a reinspection and pay any registration fee that may be required by Section 11-62.6 of this division.

(b) No waiver granted under this section shall be valid unless in writing and signed both by the director or his designee and the applicant. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)

Sec. 11-62.11. Severability.

The provisions of this division are intended to be severable, and if any such provision be deemed or adjudged to be invalid or unenforceable, the remaining portions of this division shall remain in full force and effect with their validity unimpaired. (Ord. No. O-93-262,9-28-93, eff. 1-1-94)